

KAMS400008222021



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC**  
**AT K.R.NAGAR**

**PRESENT:** Sri. Aravindra B.C., B.A., L.L.B.,  
Senior Civil Judge & JMFC,  
K.R.Nagar.

Dated this the 25<sup>th</sup> day of November, 2024

**O.S. No.65/2021**

Sri. Kashigowda and others

**.....Plaintiffs**

**-Versus-**

Sri. Siddegowda

**.....Defendant**

**Parties to I.A.No.V**

**Applicant** : Sri. Siddegowda,  
S/o Sannakarigowda,  
Aged about 80 years,  
R/at: Hosaagrahara village,  
Hosaagrahara Hobli,  
K.R.Nagar Taluk,  
Mysuru District.

**..... Defendant**  
**(By Sri. S.K.M., Adv.)**

**-V/s-**

**Opponents** : 1. Sri. Kasigowda,  
S/o Channegowda,  
Aged about 70 years.



2. Smt. Vinodamma,  
W/o Kasigowda,  
Aged about 52 years.
3. Smt. Sakamma,  
W/o Kasigowda,  
Aged about 55 years.
4. Sri. Madhusudan,  
S/o Kasigowda,  
Aged about 45 years.

All are R/at:  
Hosaagrahara village,  
Hosaagrahara Hobli,  
K.R.Nagar Taluk,  
Mysuru District.

**..... Plaintiffs**  
**S(By Sri. J.G. Adv.)**

Provision under which the application is filed	Under Order 7 Rule 11(a) to (d) R/w Section 151 of CPC.
Relief Sought For	Seeking permission to reject the plaint
The date on which the application is filed	05.09.2024
Number of the application	IA No.V
The date on which the objections are filed by the different opponents	23.10.2024
The date on which the orders were passed on the said application	25.11.2024



**ORDER ON IA.No.V**

This is an IA Under Order 7 Rule 11(a) to (d) R/w Section 151 of Code of Civil Procedure filed by the defendant to reject the plaint on the ground that, the plaint does not disclose proper cause of action.

2. In the supporting of affidavit, the defendant has contended that, the plaint does not disclose cause of action and further submitted that the plaintiff No.1 is alone put signature on the plaint and he has not seeking permission from this court to file the suit. Further, it is stated that, the plaintiffs have not included the necessary parties to the suit and the suit of the plaintiffs is barred by limitation. Accordingly, he prays for reject the plaint.

3. On the other hand, the plaintiffs have filed objection to the application filed by the defendant under order 7 Rule 11 of Code of Civil Procedure, wherein they



have stated that, the application filed by the defendant is not maintainable either in law or on facts. The plaintiffs have filed the suit against the defendant for the relief of declaration and permanent injunction. The application filed by the defendant is not come with purview of order 7 Rule 11 of CPC. Therefore, they prays for reject the application.

4. Heard arguments on both side.

5. On the basis of the above pleadings, the following points arise for consideration of this court:

***1. Whether the defendant has made out ground that, the plaint does not disclose cause of action ?***

***2. What order?***

6. The findings on the above points of this court are as follows:

**Point No.1 : In the Negative**  
**Point No.2 : As per final order for the following :**



## **REASONS**

7. **Point No.1:-** It is the case of the plaintiffs is that, he has filed this suit against the defendant for the relief of declaration that the plaintiffs are the owners and in possession of the plaint schedule property. On the other hand, the defendants have denied the title of the plaintiffs as well as possession. Such being the case, the plaintiffs have filed the suit for the aforesaid reliefs. On the other hand, the defendant appeared before this court and filed the written statement by denying the case of the plaintiffs. On the basis of rival pleadings of the parties, this court framed the necessary issues and trial was commenced. When case posted for cross of PW-1, the defendant has filed the present application for rejection of plaint.



8. Before appreciating the rival contentions of the parties, this court glance the provision of Order 7 Rule 11 of the C.P.C. which reads as under:-

***11- Rejection of the plaint:- The plaint shall be rejected in the following cases;***

***(a) Where it does not disclose a cause of action;***

***(b) Where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so"***

***(c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, fails to do so;***

***(d) where the suit appears from the statement in the plaint to barred by any law;***

***(e) Where is not filed in duplicate;***

***(f) Where the plaintiff fails to comply with the provisions of rule 9;***

***(Provided that the time fix by the court for the correction of valuation or supplying***



***the requisite stamp papers shall not be extend unless the court, for the reasons to be recorded, is satisfied that the plaintiff was granted by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers as case may be, with in the time fix by the court & that refusal to extent such time cause grave in justice to the plaintiff).***

9. It is clear from the above that, where the plaint does not disclose a cause of action, the relief claimed is undervalue and not corrected within the time allowed by the court, insufficiently stamped and not rectified within the time fixed by the court, barred by any law failed to enclose copies and the plaintiff fails to comply with the provisions of rule 9, the court has no other option except to reject the same. A reading of the above provision also make clear that, order 7 rule 11 of CPC can be exercised at any stage of the suit either before registering the plaint or after issuance of summons to the defendant at any time



before the conclusion of the trial. The court while deciding in such any application must have due regard only to the statements in the plaint.

10. In the present case on hand, the defendant taken contention that, the plaint does not disclose cause of action. At this juncture this court relied upon the case law in ***Saleem Bhai Vs State of Maharashtra, reported in (2003) 1 SCC 557*** wherein, it was held that, the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit before registering the plaint or after issuing summons to the defendants at any time before the conclusion of the trial. For deciding an application under clauses (a) and (d) of under Order 7 Rule 11 of CPC, the averments in the plaint are germane the pleas taken by the defendant in the written statement could be wholly irrelevant at the stage.



11. On perusal of the plaint it appears that, the suit filed by the plaintiffs for the relief of declaration and permanent injunction. Further the record shows that, the plaintiffs were filed the suit against the defendant before learned Civil Judge and JMFC, K.R.Nagar in OS No.375/2015 seeking the relief of declaration and permanent injunction. Further, the record shows that the plaintiffs were withdrawn the said suit and presented the plaint before this court. In the plaint the plaintiffs clearly stated that, the defendant has denied the title of the plaintiffs and also interfering with the possession of the plaintiffs. Therefore, the plaintiffs stated that the cause of action arose on 21.11.2014 for filing of the suit.

12. It is well settled that, the cause of action is a bundle of facts which taken with the law applicable to them gives the plaintiffs the right to relief against the



defendant. At this juncture this court is relied upon the judgment of Hon'ble Apex Court in case ***Kuldeep Singh pathnia V/s Bikram Singh Jaryal*** reported in **2017(5) SCC 345** wherein, it has been held that, the court has read the entire plaint as a whole to find out whether it disclose a cause of action and if it does, then the plaint cannot be rejected by the court exercising its powers under order 7 Rule 11 of Code of Civil procedure. On reading of the plaint it discloses that, the defendant has denied the case of the plaintiffs. The denial of the case of the plaintiffs it amounts to create cause of action to file the suit.

13. At this juncture, this court has relied upon the case law reported in ***Most. Rev. P.M.A Metropolitan and others V/s Moran Mar Marthoma and another*** reported in **AIR 1995 SC 2001** wherein, it has been held at para 27 that One of the basic principles of law is that every right has a remedy. *Ubi jus ibi remedium* is the well known



maxim. Every civil suit is cognizable unless it is barred, 'there is an inherent right in every person to bring a suit of a civil nature and unless the suit is barred by statute one may, at one's peril, bring a suit of one's choice. It is no answer to a suit, howsoever frivolous the claim, that the law confers no such right to sue'.

14. On the other hand the defendant filed written statement denying the case of the plaintiffs. The law has been settled by the Hon'ble Apex Court in various decisions that, while considering an application under order 7 Rule 11 of the Code of Civil Procedure, the court has taken to examine the averments in the plaint and the pleas taken by the defendant in its written statement would be irrelevant. Therefore, opinion of this court that, the plaint disclose the cause of action. Further, the defendant taken contention that the suit of the plaintiffs is barred by law. The question of barred by law is mixed



question of law and facts. Therefore, without examining the pleadings and evidence of both parties, cannot decide the question of limitation. Therefore, the present application filed by the defendant is not maintainable.

**Accordingly, this court answered point No.1 is in the Negative.**

15. **Point No.2:** For the above said reasons, this court proceed to pass the following:

### **ORDER**

The I.A.No.V filed by the defendant under Order 7 Rule 11(a) to (d) R/w Section 151 of CPC is hereby **rejected**.

*[Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the Open Court on this the 25<sup>th</sup> day of November, 2024]*

**(ARAVINDRA B.C.)  
SENIOR CIVIL JUDGE & JMFC,  
K.R.NAGAR.**